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IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, NORTHERN DIVISION

UNITED STATES OF AMERICA, : Case No. 1:10 CV 00147 BSJ

Petitioner, : UNITED STATES'
v. : PETITION TO ENFORCE
INTERNAL REVENUE SUMMONS
MICHAEL A. POKORNY, :
PRESIDENT OF ODYSSEY HOMES INC. :
: Respondent.

The United States, by and through Assistant United States Attorney Jeannette F. Swent, petitions this Court for an order to enforce an Internal Revenue Service (IRS) summons served on Respondent Michael A. Pokorny, President of Odyssey Homes Inc., and in support avers as follows:

I

This proceeding is brought at the request and with the authorization of the Chief Counsel of the Internal Revenue Service, a delegate of the Secretary of the Treasury of the United States, and at the direction of the Attorney General of the United States.

II

This Court has jurisdiction over this proceeding pursuant to Sections 7402(b) and 7604(a) of Title 26, United States Code, and Sections 1340 and 1345 of Title 28 of the United States Code.

III

Venue is proper in the District of Utah because Respondent Michael A. Pokorny, President of Odyssey Homes Inc., resides or may be found within this district.

IV

Wendy T. Armstrong is a revenue officer employed by the Small Business/Self Employed Division, Western Compliance Area of the Internal Revenue Service at Ogden, Utah, 84401-2310, and is authorized to issue IRS summons pursuant to the authority contained in Section 7602 of Title 26, United States Code, and Treasury Regulations, 26 C.F.R. § 301.7602-1 (2005).

V

Revenue officer Armstrong has prepared a declaration with respect to this matter which is attached as Attachment A and forms the basis of the allegations herein.

VI

Respondent Michael A. Pokorny, President of Odyssey Homes Inc., is found at 1842 North 3300 East, Layton, Utah 84040-2710.

VII

Petitioner is conducting an investigation into the federal tax liability of Michael A. Pokorny, President of Odyssey Homes Inc., for the calendar year ending December 31, 2008.

VIII

Respondent is in possession and control of testimony and documents concerning the above-described investigation.

IX

On April 8, 2010, an IRS Summons was issued requiring Respondent to appear before revenue officer Eva Pearson on May 7, 2010, at 9:00 a.m., to provide testimony and produce for examination, books, papers, records, and other data regarding the assets and liabilities of Michael A. Pokorny, President of Odyssey Homes Inc. An attested copy of the summons was served to the Respondent, Michael A. Pokorny, President of Odyssey Homes Inc. by handing a copy to the person to whom it was directed, pursuant to 26 U.S.C. § 7603. A true and correct copy of the summons is attached hereto as Attachment A.

X

On May 7, 2010, Respondent Michael A. Pokorny, President of Odyssey Homes Inc. did not appear. Respondent's refusal to comply with the summons continues to the date of this petition.

XI

The information sought by the summons is relevant for the legitimate purpose of the investigation described above and is not already in the possession of IRS.

XII

All administrative steps required by the Internal Revenue Code for the issuance of the summons have been taken.

XIII

No criminal referral has been made to DOJ with respect to Michael A. Pokorny, President of Odyssey Homes Inc. whose tax liability is being investigated.

WHEREFORE, Petitioner respectfully prays:

1. That the Court enter an order directing Respondent Michael A. Pokorny, President of Odyssey Homes Inc., to show cause, if any, why they should not comply with and obey the summons and each and every requirement thereof;
2. That the Court enter an order directing Respondent Michael A. Pokorny, President of Odyssey Homes Inc., to comply with the above summons as well as every requirement thereof by his attendance, testimony, and production as required by the summons before the revenue officer, or any other proper officer or employee of IRS, at such a time and place as may be fixed by the revenue officer or any other proper officer or employee of IRS;
3. That the United States recover its costs in maintaining this action; and
4. That the Court grant such other and further relief as it may deem just and proper.

Respectfully submitted this 2nd day of September, 2010.

CARLIE CHRISTENSEN
United States Attorney

/s/ Jeannette F. Swent

JEANNETTE F. SWENT
Assistant United States Attorney
Attorneys for the United States of America